

EXHIBIT 1

INTRODUCTION

Respondent James Corsaut is a City Council Member with the City of Isleton. As a City Council Member, Respondent Corsaut is specified in Section 87200 of the Political Reform Act (the “Act”).¹ As required by Section 87203, Respondent Corsaut is required to file periodic statements of economic interests (“SEIs”) disclosing the economic interests that he held during a specified reporting period. In addition, Respondent Corsaut was a Board Member for the Sacramento Area Council of Governments/Capitol Valley SAFE (“SACOG/SAFE”). As a Board Member, Respondent Corsaut was a “designated employee” as defined in Section 82019, subdivision (a), of the Act and in the conflict of interest code for SACOG/SAFE. As required by Section 87302 and SACOG/SAFE’s conflict of interest code, Respondent Corsaut was required to file periodic SEIs disclosing the economic interests he held during a specified reporting period.

This matter arose out of a referral from the Commission’s Technical Assistance Division, which had previously issued written notices to Respondent Corsaut informing him that he had failed to file the SEIs for both the City of Isleton and SACOG/SAFE.

- COUNT 1:** As a Board Member of the Sacramento Area Council of Governments/Capitol Valley SAFE, Respondent Corsaut failed to timely file a Leaving Office statement of economic interests in violation of Government Code sections 87300 and 87302(b).
- COUNT 2:** As a City of Isleton City Council member, Respondent Corsaut failed to timely file a 2007 annual statement of economic interests in violation of Government Code section 87203.
- COUNT 3:** As a City of Isleton City Council member, Respondent Corsaut failed to timely file a 2008 annual statement of economic interests in violation of Government Code section 87203.

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

THE RESPONDENT

This matter involves one respondent: Respondent James Corsaut, an individual residing in Isleton, California.

DEFAULT PROCEEDINGS UNDER THE ADMINISTRATIVE PROCEDURE ACT

When the Fair Political Practices Commission (the “Commission”) determines that there is probable cause for believing that the Act has been violated, it may hold a hearing to determine if a violation has occurred. (Section 83116.) Notice of the hearing, and the hearing itself, must be conducted in accordance with the Administrative Procedure Act (the “APA”).² A hearing to determine whether the Act has been violated is initiated by the filing of an accusation, which shall be a concise written statement of the charges specifying the statutes and rules which the respondent is alleged to have violated. (Section 11503.)

Included among the rights afforded a respondent under the APA, is the right to file the Notice of Defense with the Commission within 15 days after service of the accusation, by which the respondent may (1) request a hearing, (2) object to the accusation’s form or substance or to the adverse effects of complying with the accusation, (3) admit the accusation in whole or in part, or (4) present new matter by way of a defense. (Section 11506, subd. (a)(1)-(6).)

The APA provides that a respondent’s failure to file a Notice of Defense within 15 days after service of an accusation constitutes a waiver of the respondent’s right to a hearing. (Section 11506, subd. (c).) Moreover, when a respondent fails to file a Notice of Defense, the Commission may take action based on the respondent’s express admissions or upon other evidence, and affidavits may be used as evidence without any notice to the respondent. (Section 11520, subd. (a).)

PROCEDURAL REQUIREMENTS AND HISTORY

A. Initiation of the Administrative Action

Section 91000.5 provides that “[t]he service of the probable cause hearing notice, as required by Section 83115.5, upon the person alleged to have violated this title shall constitute the commencement of the administrative action.” (Section 91000.5, subd. (a).)

Section 83115.5 prohibits a finding of probable cause by the Commission unless the person alleged to have violated the Act is 1) notified of the violation by service of process or registered mail with return receipt requested; 2) provided with a summary of the evidence; and 3) informed of his right to be present in person and represented by counsel at any proceeding of the Commission held for the purpose of considering whether probable cause exists for believing the person violated the Act. Additionally, Section 83115.5 states that the required notice to the

²The California Administrative Procedure Act, which governs administrative adjudications, is contained in Sections 11370 through 11529 of the Government Code.

alleged violator shall be deemed made on the date of service, the date the registered mail receipt is signed, or if the registered mail receipt is not signed, the date returned by the post office.

Section 91000.5 provides that no administrative action pursuant to Chapter 3 of the Act, alleging a violation of any of the provisions of Act, shall be commenced more than five years after the date on which the violation occurred.

Documents supporting the procedural history are included in the attached Certification of Records ("Certification") filed herewith at Exhibit A, A-1 through A-8), and incorporated herein by reference.

In accordance with Sections 83115.5 and 91000.5, the Enforcement Division initiated the administrative action against Respondent Corsaut in this matter by serving him with a Report in Support of a Finding of Probable Cause (the "Report") by certified mail, unclaimed, on May 21, 2010. (See Certification, Exhibit A-1.) Therefore, the administrative action commenced on May 21, 2010, the date Respondent was served the Report, and the five year statute of limitations was effectively tolled on this date.

As required by Section 83115.5, the packet served on Respondent Corsaut contained a cover letter dated March 29, 2010, and a memorandum describing Probable Cause Proceedings, advising that Respondent had 21 days in which to request a probable cause conference and/or to file a written response to the Report. (See Certification, Exhibit A-2.) Respondent neither requested a probable cause conference nor submitted a written response to the Report.

B. Ex Parte Request for a Finding of Probable Cause

Since Respondent failed to request a probable cause conference or submit a written response to the Report by the statutory deadline, the Enforcement Division submitted an Ex Parte Request for a Finding of Probable Cause and an Order that an Accusation be Prepared and Served to Executive Director Roman G. Porter, on May 27, 2010. (See Certification, Exhibit A-3.)

Executive Director Roman G. Porter issued a Finding of Probable Cause and Order to Prepare and Serve an Accusation dated May 27, 2010. (Certification, Exhibit A-4.)

C. The Issuance and Service of the Accusation

Under the Act, if the Executive Director makes a finding of probable cause, he or she shall prepare an accusation pursuant to Section 11503 of the APA, and have it served on the persons who are the subject of the probable cause finding. (Regulation 18361.4, subd. (e).)

Section 11503 states:

A hearing to determine whether a right, authority, license or privilege should be revoked, suspended, limited or conditioned shall be initiated by filing an accusation. The accusation shall be a written statement of charges which shall set forth in ordinary and concise language the acts or omissions

with which the respondent is charged, to the end that the respondent will be able to prepare his defense. It shall specify the statutes and rules which the respondent is alleged to have violated, but shall not consist merely of charges phrased in the language of such statutes and rules. The accusation shall be verified unless made by a public officer acting in his official capacity or by an employee of the agency before which the proceeding is to be held. The verification may be on information and belief.

Section 11505, subdivision (a) requires that, upon the filing of the accusation, the agency shall 1) serve a copy thereof on the respondent as provided in Section 11505, subdivision (c); 2) include a post card or other form entitled Notice of Defense which, when signed by or on behalf of the respondent and returned to the agency, will acknowledge service of the accusation and constitute a notice of defense under Section 11506; 3) include (i) a statement that respondent may request a hearing by filing a notice of defense as provided in Section 11506 within 15 days after service upon the respondent of the accusation, and that failure to do so will constitute a waiver of the respondent's right to a hearing, and (ii) copies of Sections 11507.5, 11507.6, and 11507.7.

Section 11505, subdivision (b) set forth the language required in the accompanying statement to the respondent

Section 11505, subdivision (c) provides that the Accusation and accompanying information may be sent to the respondent by any means selected by the agency, but that no order adversely affecting the rights of the respondent shall be made by the agency in any case unless the respondent has been served personally or by registered mail as set forth in Section 11505.

On May 27, 2010, the Commission's Executive Director, Roman G. Porter, issued an Accusation against Respondent in this matter. (See Certification, Exhibit A-5.) In accordance with Section 11505, the Accusation and accompanying information, consisting of a cover letter, Statement to Respondent, two copies of a Notice of Defense Form, and copies of Government Code Sections 11506 through 11508, were personally served on Respondent Corsaut on July 1, 2010. (See Certification, Exhibit A-6.)

Along with the Accusation, the Enforcement Division served Respondent with a "Statement to Respondent" which notified him that he could request a hearing on the merits and warned that, unless a Notice of Defense was filed within 15 days of service of the Accusation, he would be deemed to have waived the right to a hearing. Respondent did not file a Notice of Defense within the statutory time period, which ended on July 16, 2010.

After Respondent's failure to file his 2007 annual statement of economic interests, two letters were sent to Respondent by the FPPC's Technical Assistance Division (TAD), along with the appropriate Form 700, for Respondent to complete and file with the FPPC. Copies of the notification letters are dated June 17, 2008 and July 28, 2008. (See Certification, Exhibit A-7)

After Respondent's failure to file his 2008 annual statement of economic interests, two letters were sent to Respondent by the FPPC's Technical Assistance Division (TAD), along with the appropriate Form 700, for Respondent to complete and file with the FPPC, Copies of the notification letters are dated May 5, 2009 and June 18, 2009. (See Certification, Exhibit A-8)

After Respondent's failure to file his SACOG/SAFE leaving office statement of economic interests, two letters were sent to Respondent by the FPPC's Technical Assistance Division (TAD), along with the appropriate Form 700, for Respondent to complete and file with the FPPC, Copies of the notification letters are dated January 21, 2009 and June 1, 2009. (See Certification, Exhibit A-9)

As a result of Respondent's noncompliance to file his 2007 and 2008 annual statements of economic interests as member of the Isleton City Council, and failure to file his leaving office statement of economic interests for his service on SACOG/SAFE with the FPPC, on August 13, 2010 Chief of Enforcement Gary Winuk sent a letter to Respondent advising that this matter would be submitted for a Default Decision and Order at the Commission's public meeting scheduled for September 9, 2010. A copy of the Default Decision and Order, and this accompanying Exhibit 1, with attachments, was included with the letter. (See Certification, Exhibit A-10.)

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in Section 81002, subdivision (c), is to ensure that the assets and income of public officials that may be materially affected by their official actions be disclosed, so that conflicts of interests may be avoided. In furtherance of this purpose, Section 87203, requires every person who holds an office specified in Section 87200 to annually file statements of economic interests, disclosing reportable investments, business positions, interests in real property, and sources of income.

In addition, Section 87300 requires every state and local agency to adopt and promulgate a conflict of interest code. Under Section 87300, the requirements of an agency's conflict of interest code have the force of law, and any violation of those requirements is deemed a violation of the Act.

Section 87302, subdivision (a), provides that an agency's conflict of interest code must specifically designate the positions within the agency that are required to file statements of economic interests, disclosing reportable investments, business positions, interests in real property, and sources of income. Under Section 82019, subdivision (a), and Section 87302, the persons who are to be designated in an agency's conflict of interest code are the officers, employees, members, and consultants of the agency whose position with the agency entails making, or participating in making, governmental decisions that may foreseeably have a material effect on one or more of the person's economic interests.

Under Section 87302, subdivision (b), an agency's conflict of interest code must require

every designated employee of the agency to file an annual SEI at the time specified in the conflict of interest code disclosing reportable investments, business positions, interest in real property and income held or received at any time during the previous calendar year or since the date the designated employee took office if during the calendar year. The applicable conflict of interest code for SACOG/SAFE (“Conflict of Interest Code”) requires that each designated employee file an annual statement on or by April 1 of each year. According to the Conflict of Interest Code, a Board Member for SACOG/SAFE is a designated position.

SUMMARY OF THE FACTS

On December 13, 2006, Respondent James Corsaut was elected to the City of Isleton’s city council and continues to serve in this position until the end of his term in 2010. As an elected official, Respondent Corsaut was required, in relevant part, to file annual SEIs disclosing his economic interests held in a calendar year.

On February 14, 2007, Respondent Corsaut was appointed as a Board Member for SACOG/SAFE and served in this position until February 25, 2008. SACOG/SAFE is a local government agency under the Act. As a designated employee under the Conflict of Interest Code for SACOG/SAFE, Respondent Corsaut was required to file a Leaving Office SEI within 30 days of leaving this position. On or about January 21, 2009, TAD sent a letter to Respondent Corsaut, stating that his Leaving Office SEI for his position with SACOG/SAFE was past due and requiring that it be filed within 30 days. Respondent Corsaut failed to file the Leaving Office SEI. On or about June 1, 2009, TAD sent a second letter to Respondent Corsaut stating that his Leaving Office SEI was still past due, and requiring that it be filed within 10 days. On or about June 22, 2009, after receiving no statement from Respondent Corsaut, TAD referred the matter to the Commission’s Enforcement Division.

On or about June 17, 2008, TAD sent a letter to Respondent Corsaut, stating that his 2007 Annual SEI for his position as a city council member was past due and requiring that it be filed within 30 days. Respondent Corsaut failed to file the 2007 Annual SEI. On or about July 28, 2008, TAD sent a second letter to Respondent Corsaut stating that his 2007 Annual SEI was still past due, and requiring that it be filed within 10 days. On or about September 12, 2008, after receiving no statement from Respondent Corsaut, TAD referred the matter to the Commission’s Enforcement Division.

On or about May 5, 2009, TAD sent a letter to Respondent Corsaut, stating that his 2008 Annual SEI for his position as a city council member was past due and requiring that it be filed within 30 days. Respondent Corsaut failed to file the 2008 Annual SEI. On or about June 18, 2009, TAD sent a second letter to Respondent Corsaut stating that his 2008 Annual SEI was still past due, and requiring that it be filed within 10 days. On or about July 27, 2009, after receiving no statement from Respondent Corsaut, TAD referred the matter to the Commission’s Enforcement Division.

On or about September 28, 2007, and again on or about March 25, 2008, the Commission’s Enforcement Division sent two communications to Respondent Corsaut. Despite

the communications from both TAD and the Commission's Enforcement Division, Respondent Corsaut failed to file his SEIs as noted above.

Additionally, the Enforcement Division had two telephone conversations with Respondent regarding this matter. The telephone contact was only initiated after service of the Accusation. Prior to that, Respondent did not contact the Enforcement Division in any way. Respondent contended in the initial phone conversation on July 1, 2010 that he was going to have witnesses contact the Enforcement Division in his defense the next day, but did not do so. The Enforcement Division again contacted Respondent on July 21, 2010 and Respondent again said he would have a witness contact the Enforcement Division the next day. No one contacted the Enforcement Division, who then called the Respondent again on July 26, 2010 and left a message which was not returned. In addition to not having the witness call the Enforcement Division, the Respondent also has not filed the delinquent statements.

CONCLUSION

This matter consists of three counts of violating the Act carrying a maximum administrative penalty of \$15,000.

In determining the appropriate penalty for a particular violation of the Act, the Enforcement Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division considers the facts and circumstances of the violation in context of the factors set forth in Regulation 18361.5, subdivision (d)(1)-(6): the seriousness of the violations; the presence or lack of intent to deceive the voting public; whether the violation was deliberate, negligent, or inadvertent; whether the Respondent demonstrated good faith in consulting with Commission staff; and whether there was a pattern of violations.

The typical administrative penalty imposed against public officials for failing to file an annual or leaving office Statement of Economic Interest has been in the low to mid range of penalties. Respondent failed to respond to numerous inquiries from the Technical Assistance Division and the Enforcement Division regarding this matter. Accordingly, the facts of this case justify a total imposition of an administrative penalty of Two Thousand Dollars (\$2,000) per count, for a total penalty of six thousand dollars (\$6,000).

AGGRAVATING FACTORS

Respondent failed to file three Statements of Economic Interest. The public harm inherent in this violation is that the public is deprived of important and timely information from Respondent regarding potential conflicts of interest or sources of influence.

Additionally, Respondent failed to cooperate with the investigation or the procedural administration of the case.

MITIGATING FACTORS

Respondent filed his 2009 annual SEI in a timely manner.

PENALTY

The facts of this case, including the aggravating and mitigating factors discussed above, justify imposition of the penalty of Two Thousand Dollars (\$2,000) per count, for a total penalty of Six Thousand Dollars (\$6,000), .